

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
Austin Division**

**TYASIA GUADALUPE, on behalf of  
herself and all others similarly situated,**

**Plaintiff,**

**Case No. 1:16-CV-967-SS**

**v.**

**AMERICAN CAMPUS COMMUNITIES  
SERVICES, INC.,**

**Defendant.**

\_\_\_\_\_ /

**MOTION FOR APPROVAL OF SETTLEMENT OF  
FAIR LABOR STANDARDS ACT COLLECTIVE ACTION**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW the Plaintiff, Tyasia Guadalupe, by counsel, on behalf of herself and of all opt-in plaintiffs for whom a Consent Form was filed in this Action (the “Opt-In Plaintiffs” and together with Tyasia Guadalupe, the “Plaintiffs”) and moves this Court for an Order approving the parties’ settlement and dismissing this Action with prejudice as follows:

1. The Plaintiff filed this lawsuit on November 6, 2015 as a putative collective action under the Fair Labor Standards Act (“FLSA”), on behalf of herself and all others similarly situated, asserting a cause of action for, among other things, alleged improper wage deductions and a failure to pay for all hours worked at the minimum wage in violation of 29 U.S.C. § 206 of the FLSA, and failure to pay overtime at the proper rate as required by 29 U.S.C. § 207.

2. The Court conditionally certified the Action as a collective action under 29 U.S.C. § 216(b) of the FLSA (ECF No. 89).

3. Thereafter, in addition to Tyasia Guadalupe, 488 Opt-In Plaintiffs filed Consent Forms seeking to join this Action.

4. Defendant denies any wrongdoing or liability of any kind whatsoever regarding the claims in the Action and disputes that the class is properly certified.

5. On March 10, 2020, the parties participated in a mediation of the Action in Dallas, Texas, which was presided over by the Honorable Linda Thomas, Retired Chief Justice of the Fifth District Court of Appeals. At this mediation, all counsel and parties engaged in good faith, arm's-length discussions, and the negotiations were adversarial and non-collusive.

6. The mediation resulted in the settlement of the Action pursuant to the terms embodied in the Settlement Agreement attached as **Exhibit 1**.

7. Counsel for the Plaintiffs has conducted a thorough investigation and evaluation of the facts in this Action, including those contained in thousands of pages of relevant documents and otherwise in response to written discovery, and has diligently pursued an investigation of the Plaintiffs' claims against the Defendant. Based on this thorough investigation and evaluation, counsel for the Plaintiffs believes that this settlement with the Defendant for the consideration and pursuant to the terms set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Plaintiffs considering all of the known facts and circumstances, including the number of Opt-In Plaintiffs, the complexity and likely duration of the litigation, the range of possible recovery, and the defenses the Defendant has asserted.

8. Both counsel for the Plaintiffs and counsel for the Defendant have vigorously pursued their positions and the rights of their clients through extended legal and factual analysis, exchange of information, and settlement discussions and mediation to achieve a compromise and settlement of the claims asserted in this Action.

9. The terms of the Settlement Agreement are a reasonable compromise of Plaintiffs' disputed claims.

10. The Plaintiffs have been represented by counsel throughout this litigation and agree to the terms of the Settlement Agreement and accept the payment of the Settlement Amount as defined therein.

11. Therefore, the Plaintiffs request that the Court approve the parties' settlement as described in the Settlement Agreement and, without limitation, each of the following as defined in and described in the Settlement Agreement:

- a. The Settlement Amount;
- b. The allocation of the Settlement Payments to the Plaintiffs;
- c. The payment of all Expenses of Litigation from the Settlement Amount, including reimbursement of amounts so advanced by counsel for the Plaintiffs;
- d. An award of attorneys' fees of forty percent (40%) of the Settlement Amount to counsel for the Plaintiffs;
- e. A Service Payment to Tyasia Guadalupe for her service to the Opt-In Plaintiffs in originating and prosecuting the Action, excluding payment for her individual claims, in the amount of Twelve Thousand Five Hundred Dollars (\$12,500); and
- f. The release of the Released Claims against the Defendant and persons and entities related to the Defendant.

12. The Plaintiffs further request that following approval of the parties' settlement by the Court, the Court dismiss this Action with prejudice.

13. The Plaintiffs request that if the Court determines that a hearing on this Motion is necessary, that the Court permit the parties to participate in the hearing telephonically.

14. A proposed Order is attached as **Exhibit 2**.

15. The undersigned counsel represents to the Court that counsel for the Defendant has reviewed this Motion and the proposed Order and has no objection to either.

**WHEREFORE**, the Plaintiff, Tyasia Guadalupe, on behalf of herself and the Opt-In Plaintiffs request that the Court enter an Order approving the parties' settlement and dismissing this case with prejudice.

**TYASIA GUADALUPE**, on behalf of herself  
and all others similarly situated,

By: /s/ Joshua M. David  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of June, 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF System, which will then send notification of such filing (NEF) to the following:

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